

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

INTELLECTUAL VENTURES II LLC,

Plaintiff,

v.

DENSO CORPORATION, AND DENSO
INTERNATIONAL AMERICA, INC.,

Defendants.

Case No. 1:17-cv-00297-LPS-CJB

JURY TRIAL DEMANDED

**DEFENDANT DENSO CORPORATION, AND DENSO INTERNATIONAL AMERICA,
INC.’S UNOPPOSED MOTION TO STAY ACTION PENDING ITC DETERMINATION**

Defendants DENSO CORPORATION (“DCJP”) and DENSO INTERNATIONAL AMERICA, INC. (“DIAM”) (collectively “DENSO” or “Defendants”) respectfully move this Court pursuant to 28 U.S.C. § 1659 and its inherent powers to control its docket for a stay of all proceedings in the above-captioned case until the determination of the United States International Trade Commission (“ITC”) in a parallel proceeding becomes final. Pursuant to District of Delaware Local Rule 7.1.1, the parties have met and conferred regarding this motion. Plaintiff Intellectual Ventures II LLC (“IV”) does not oppose this motion.

On March 20, 2017, IV filed its complaint against DENSO in this action (“the Delaware action”), alleging infringement of U.S. Patent No. 7,067,952 (“the ’952 patent”). The very next day, IV also filed a complaint against DENSO with the ITC (“the ITC action”) asserting the ’952 patent. The ITC instituted the ITC action on April 28, 2017.

Pursuant to 28 U.S.C. § 1659 district court patent claims that involve the same issues as a parallel ITC proceeding are subject to a mandatory stay. Specifically, 28 U.S.C. § 1659(a) provides:

(a) Stay. In a civil action involving parties that are also parties to a proceeding before the United States International Trade Commission under section 337 of the Tariff Act of 1930, at the request of a party to the civil action that is also a respondent in the proceeding before the Commission, the district court shall stay, until the determination of the Commission becomes final, proceedings in the civil action with respect to any claim that involves the same issues involved in the proceeding before the Commission, but only if such request is made within –

- (1) 30 days after the party is named as a respondent in the proceeding before the Commission, or
- (2) 30 days after the district court action is filed, whichever is later.

28 U.S.C. § 1659(a). A stay issued under this statute remains in effect during any appeals and “until the Commission proceedings are no longer subject to judicial review.” *In re Princo Corp.*, 478 F.3d 1345, 1355 (Fed. Cir. 2007). Here, because the patent asserted in this action is also asserted against DENSO in the 337-TA-1052 Investigation, and because the parties and the accused products are also the same, a stay of this case is mandatory upon timely request by DENSO. DENSO’s request is timely under §1659 because this request is being made within 30 days of the May 3, 2017 publication of the ITC’s Notice of Institution of Investigation, which names DENSO as respondents in the 337-TA-1052 Investigation.

For the foregoing reasons, DENSO respectfully requests that the Court enter the attached proposed order and stay all proceedings in the Delaware action until the determination of the 337-TA-1052 Investigation becomes final, including any appeals and until the Commission proceedings are no longer subject to judicial review.

Dated: May 9, 2017

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